

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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MARK D. MARSHALL,

Plaintiff,

v.

JANEL NICKEL; SEAN SALTER;  
GREG GRAMS, Warden at CCI;  
C/O JAMES; C/O T. BITTELMAN;  
C/O NEUMAIER, Medical Doctor SULIENE;  
ICE MARY LEISER; ICE BURT TAMMINGA;  
RN. NANCY HAHNISCH; LT. LIPINSKI;  
RN. SUE WARD; RN. LINDY MUCHOW;  
2nd Shift SGT. FINK; RN. KIM CAMBELL;  
MIKE VANDENBROOK; and JANET WALSH,

Defendants.

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ORDER

06-C-617

Plaintiff Mark Marshall has filed a motion to compel, which is DENIED. As an initial matter, I note that plaintiff does not indicate on his motion whether he served it on defendants. As explained to plaintiff in the order screening his complaint, I may not consider any filing of a party unless it has been served on all parties to the case. In this one instance, I am sending a copy of plaintiff's motion to defendants' counsel (and Sue Ward, who is not currently represented) along with this order. In the future, plaintiff must serve

on defendants everything he files with the court and he must show on the court's copy that he has sent a copy to defendants' lawyer (or to the defendant herself if she is not represented by counsel).

In his motion, plaintiff asks the court to direct defendants to produce "all evidence" under Federal Rules of Civil Procedure 33, 34 and 36. Unfortunately, it appears that plaintiff misunderstands the appropriate use of a motion to compel. Before he files a motion to compel, he must first serve discovery requests on defendants. Further, he may not simply request "all evidence"; he must explain to defendants in sufficient detail the type of information he seeks. The general standard for obtaining information in discovery is found in Fed. R. Civ. P. 26(b)(1):

Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.

Plaintiff may request an order from the court compelling discovery only if defendants fail to provide the information properly requested within the time allowed by the particular rule of procedure. The proper procedure for preparing and serving interrogatories, requests for production and requests for admission may be found in the rules petitioner cites. He

should study these rules carefully before proceeding further.

Entered this 23<sup>rd</sup> day of March, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB  
District Judge